

REMARKS / ARGUMENTS

In response to the office action of January 8, 2007, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims based on the following remarks and arguments.

The Examiner has reminded Applicant that in order to perfect the claim for priority under 35 U.S.C. §119(a)-(d) or (f), a certified copy of the priority document must be submitted in this application. Alternatively, the parent application in which the document was filed may simply be identified. Applicant is presently reviewing the parent applications and will either identify the relevant application by supplementary response or else submit a certified copy of German Patent Application No. P 43 22 826.7 in this application.

Claims 11-22 have been rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. patent No. 4,317,823 to Rainer. Rainer has been cited for teaching a composition comprising about 10 % ibuprofen. The Examiner cites column 10, line 6 and column 35, example 24, where 200g/2000 g of active agent is disclosed. Applicant respectfully submits that column 10, line 6, of Rainer names ibuprofen as a quinazolinone, which may be optionally used as an additional pharmacology-active constituent along with a pyrazolobenzodiazepinone active compound. See column 9, line 54 to column 10, line 5. Column 35, Example 24, indicates that 200 g of active compound (i.e., the pyrazolobenzodiazepinone): 1,3-dimethyl-4-[(4-methylpiperazin-1-yl)-acetyl]-1,4,9,10 tetrahydropyrazolo[4,3b][1,5]benzodiazepine-10-one, is used.

The Examiner has further posited that Rainer also teaches a diluent such as neutral oil exemplified as present in an amount of about 45%. Column 35, Example 24, has been specifically cited for this teaching. In particular, the Examiner has cited Rainer's use of 900 g of diluent for a 2000 g composition. Applicant respectfully submits that the 900 g of *maize starch* disclosed by Rainer, is not 5-40% by weight, based on the carrier composition, of a pharmaceutically acceptable *oil* which is substantially pure or which is in the form of a mixture, comprising a triglyceride as essential lipophilic component, as presently claimed. It is respectfully submitted that at column 9, lines 5-6, maize starch is categorized by Rainer as a dispersing agent, along with alginates. Nor

would one skilled in the art consider maize starch to be an oil as required by Applicant's claims. Further, even if maize starch was considered an oil, Applicant's claimed range of 5-40% by weight based on the carrier composition, is outside of the range of Rainer, who exemplifies 45% (900 g/2000g) maize starch.

Rainer has been further cited for teaching suspending agents such as polyoxyethylene sorbitol monooleate and sorbitan monooleate in an emulsion, present in an amount of about 25%. Column 35, Example 24, of Rainer has been specifically cited for teaching 500 g of suspending agents. Column 9, lines 18-22 of Rainer, list the suspending agents, sodium carboxymethylcellulose, methylcellulose, hydroxypropylcellulose, sodium alginate, polyvinylpyrrolidone, gum tragacanth or gum acacia. Applicant respectfully submits that Column 35, Example 24, of Rainer teaches the use of 50 g of the suspending agent polyvinylpyrrolidone out of a total 2000g composition, i.e., 2.5%. Further, Applicant submits that component (a) of the present claims recites 10-50% by weight based on the carrier composition of either a polyglycerol fatty ester or a sorbitan fatty acid ester. Not only is the sorbitan fatty acid ester, sorbitan monooleate not used as a suspension agent in example 24 of Rainer, Applicant's sorbitan fatty acid ester is present in a range of 10-50% by weight, which is outside of that used for polyvinylpyrrolidone (2.5%), the suspension agent exemplified by Rainer.

It is respectfully submitted that Rainer fails to highlight Applicant's claimed compositions among the many dozens disclosed. Further, Rainer fails to teach a process for making the claimed compositions, since again, Rainer fails to teach the specific compositions claimed among the many compositions taught.

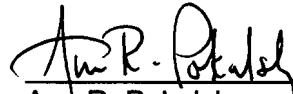
Moreover, Rainer neither teaches nor suggests the particular ratios of components (a), (b) and (c) of Applicant's claimed compositions (claims 11-20) and methods of making such compositions (claims 21-22).

Where a prior art reference provides no teaching or suggestion of the required ratio of components in the claimed compositions, nor indicates the particularly claimed composition among many dozens disclosed, a rejection under 35 U.S.C. § 102 should be reversed. See *In re Kollman and Irwin*, 201 USPQ 193, 595 F.2d 48 (CCPA 1979).

In view of the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

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Date: June 8, 2007


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